

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	C.A. No. 91-CV578-JLF
)	
v.)	
)	
NL INDUSTRIES, INC., et al.,)	
)	
Defendants,)	
)	
and)	
)	
CITY OF GRANITE CITY, ILLINOIS,)	
LAFAYETTE H. HOCHULI, and)	
DANIEL M. McDOWELL,)	
)	
Intervenor-Defendants.)	
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ALLIED-SIGNAL INC.'S OBJECTIONS AND RESPONSES
TO UNITED STATES' SUPERSEDING
REQUESTS FOR ADMISSION TO ALL DEFENDANTS

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, Allied-Signal Inc. ("Allied-Signal"), by and through its attorneys, Pretzel & Stouffer, Chartered, objects and responds to the United States' Superseding Requests for Admission to All Defendants as follows:

OBJECTION

The United States claims that all answers to its Requests for Admission are due in 10 days. Rule 36 of the Federal Rules of Civil Procedure provides for 30 days. At the February 25, 1992 Status Conference, the Defendants agreed to answer previously propounded discovery relevant to Phase I as identified in the Case Management Order within 10 days. Allied-Signal objects to the foreshortened response period to the extent that the United States' superseding



discovery requests contain questions which are not identical to the United States' previously propounded discovery requests.

ANSWERS TO
REQUESTS FOR ADMISSION

1. Admit that Answering Defendant received a general notice letter and request for information relating to the Site from U.S. EPA dated November 28, 1989.

Response: Admitted.

2. Admit that the document attached as Exhibit A is a true and accurate copy of the November 28, 1989 letter (excluding attachments) referred to in Request for Admission 1.

Response: Admitted.

3. Admit that Answering Defendant knew that there would be a meeting in Chicago on December 18, 1989 relating to the Site, which meeting was announced in the November 28, 1989 letter referred to in Request for Admission 1.

Response: Admitted.

4. Admit Answering Defendant attended a meeting with U.S. EPA relating to the Site in Chicago in December 18, 1989.

Response: Admitted.

5. Admit that a timetable for future Site events, including the anticipated date of the release of U.S. EPA's proposed remedial action plan for the Site and public comment period on the proposed plan, was discussed at the December 18, 1989 meeting.

Response: Admitted.

6. Admit that representatives of U.S. EPA stated at the December 18, 1989 meeting that U.S. EPA expected to release its proposed plan for remedial action at the Site on January 10, 1990.

Response: Denied.

7. Admit that NL Industries, Inc., performed a Remedial Investigation and Feasibility Study for the Site ("RI/FS") between 1985 and 1990, subject to U.S. EPA oversight, pursuant to the 1985 Administrative Order on Consent.

Response: Allied-Signal admits that NL Industries, Inc. ("NL") performed a Remedial Investigation and a draft report concerning remedial alternatives, but that NL was denied the opportunity to submit a Feasibility Study for the Site.

8. Admit that on January 10, 1990, U.S. EPA approved the FS, with modifications.

Response: Allied-Signal admits that U.S. EPA purports to have approved the FS in a document dated January 10, 1990, but denies that EPA's response to the FS in fact constitutes an approval.

9. Admit that U.S. EPA provided the FS for the Site to the public for review and comment in accordance with the National Contingency Plan ("NCP"), 40 C.F.R. § 300.67(d) (1989).

Response: Allied-Signal objects to the Request's use of the phrase "in accordance with the National Contingency Plan" on the grounds that it seeks an admission of a conclusion of law. Without waiving its objection, Allied-Signal denies the Request.

10. Admit that U.S. EPA provided at least 21 calendar days for submission of comments on the FS for the Site, in accordance with the NCP, 40 C.F.R. § 300.67(d) (1989).

Response: Allied-Signal objects to the Request's use of the phrase "in accordance with the NCP" on the grounds that it seeks an admission of a conclusion of law. Allied-Signal further objects that the Request is vague and ambiguous to the extent it does not state to whom U.S. EPA purportedly provided the opportunity for submission of comments on the FS for the Site. Without waiving its objections, Allied-Signal denies this Request.

11. Admit that the comment period referred to in the above Request for Admission preceded U.S. EPA's March 30, 1990 Record of Decision for the Site, in accordance with the NCP, 40 C.F.R. § 300.67(d) (1989).

Response: Allied-Signal objects to the Request's use of the phrase "in accordance with the NCP" on the grounds that it seeks an admission of a conclusion of law. Without waiving its objection, Allied-Signal denies this Request.

12. Admit U.S. EPA published a notice and brief description of the proposed plan in the Granite City Journal on Wednesday, January 10, 1990.

Response: Allied-Signal objects to the Request's undefined use of the term "proposed plan". Allied-Signal further objects to the Request's use of the term "notice" to the extent it seeks an admission of a conclusion of law. Without waiving its objections, Allied-Signal admits that U.S. EPA published information about the Site in the Granite City Journal on January 10, 1990, but denies that it was aware of the publication of such information on or about January 10, 1990.

13. Admit that the document attached as Exhibit B is a true and accurate copy of the newspaper article published in the Granite City Journal on Wednesday, January 10, 1990.

Response: Allied-Signal objects to the Request's vague and ambiguous use of the undefined term "newspaper article." Without waiving its objection, Allied-Signal admits the Request.

14. Admit U.S. EPA published a notice and brief description of the proposed plan in the Granite City Press-Record on Thursday, January 11, 1990.

Response: Allied-Signal objects to the Request's undefined use of the term "proposed plan". Allied-Signal further objects to the Request's use of the term "notice" to the extent it seeks an admission of a conclusion of law. Without waiving its objections, Allied-Signal admits that U.S. EPA published information about the Site in the Granite City Journal on January 10, 1990, but denies that it was aware of the publication of such information on or about January 10, 1990.

15. Admit that the document attached as Exhibit C is a true and accurate copy of the newspaper article published in the Granite City Press-Record on Thursday, January 1, 1990.

Response: Allied-Signal objects to the Request's vague and ambiguous use of the undefined term "newspaper article." Without waiving its objection, Allied-Signal admits this Request.

16. Admit that the Administrative Record for the Site was made available to the public at the Granite City Library, 2001 Delmar Avenue, Granite City, Illinois 62040, in accordance with Section 113(k)(1) of CERCLA, 42 U.S.C. § 9613 (k) (1).

Response: Allied-Signal objects to the Request's use of the phrase "in accordance with Section 113(k) of CERCLA, 42 U.S.C. § 9613(k)(1) on the grounds that it seeks an admission of a conclusion of law. Without waiving its objection, and following a reasonable inquiry of information known or readily obtainable, Allied-Signal lacks sufficient information to admit or deny the Request.

17. Admit that the Administrative Record for the Site was made available to the public at the Granite City Library, 2001 Delmar Avenue, Granite City, Illinois 62040, in accordance with Section 117(d) of CERCLA, 42 U.S.C. § 9617(d).

Response: Allied-Signal objects to the Request's use of the phrase "in accordance with Section 117(d) of CERCLA, 42 U.S.C. § 9617(d) on the grounds that it seeks an admission of a conclusion of law. Without waiving its objection, and following a reasonable inquiry of information known or readily obtainable, Allied-Signal lacks sufficient information to admit or deny the Request.

18. Admit that U.S. EPA published notice and brief analysis of the proposed plan for the Site in accordance with Section 117(a)(1) of CERCLA, 42 U.S.C. § 9617(a)(1).

Response: Allied-Signal objects to the Request's use of the term "notice" and the phrase "in accordance with Section 117(a)(1) of CERCLA, 42 U.S.C. § 9617(a)(1)" on the grounds that it seeks an admission of a conclusion of law. Allied-Signal further objects to the

Request's use of the undefined term "proposed plan." Without waiving its objections, Allied-Signal denies the Request.

19. Admit that U.S. EPA provided a brief analysis of the proposed plan for the Site and the alternative plans considered in accordance with Section 113(k)(2)(B)(i) of CERCLA, 42 U.S.C. § 9613(k)(2)(B)(i).

Response: Allied-Signal objects to the Request's use of the phrase "in accordance with Section 113(k)(2)(B)(i) of CERCLA, 42 U.S.C. § 9613(k)(2)(B)(i)" on the grounds that it seeks an admission of a conclusion of law. Allied-Signal further objects to the Request's use of the undefined term "proposed plan." Without waiving its objections, Allied-Signal denies the Request.

20. Admit that U.S. EPA provided a brief analysis of the proposed plan for the Site in accordance with the National Contingency Plan ("NCP"), 40 C.F.R. § 300.430(f)(3)(i)(A) (1990), 55 Fed. Reg. 8851 (March 8, 1990).

Response: Allied-Signal objects to the Request's use of the phrase "in accordance with the National Contingency Plan ("NCP"),, 40 C.F.R. § 300.430(f)(3)(i)(A) 1990, 55 Fed. Reg. 8851 (March 8, 1990)" on the grounds that it seeks an admission of a conclusion of law. Allied-Signal further objects to the Request's use of the undefined term "proposed plan." Without waiving its objections, Allied-Signal denies the Request.

21. Admit that U.S. EPA published the notice and brief analysis of the proposed plan for the Site referred to in Request for Admission 20 in a major local newspaper of general circulation, in accordance with Section 117 (d) of CERCLA, 42 U.S.C. § 9617(d).

Response: Allied-Signal objects to the Request's use of the term "notice" and the phrases "major local newspaper of general circulation" and "in accordance with Section 117 (d) of CERCLA, 42 U.S.C. § 9617(d) on the grounds that it seeks an admission of a conclusion of law. Allied-Signal further objects to the Request's use of the undefined term "proposed plan." Without waiving its objections, Allied-Signal denies the Request.

22. Admit that U.S. EPA published the notice and brief analysis of the proposed plan for the Site referred to in Request for Admission 20 in a major local newspaper of general circulation, in accordance with the NCP, 40 C.F.R. § 300.430(f)(3)(i)(A) (1990), 55 Fed. Reg. 8, 851 (March 8, 1990).

Response: Allied-Signal objects to the Request's use of the term "notice" and the phrases "major local newspaper of general circulation" and "in accordance with the NCP, 40 C.F.R. § 300.430(f)(3)(i)(A) (1990), 55 Fed. Reg. 8, 851 (March 8, 1990) on the grounds that it seeks an admission of a conclusion of law. Allied-Signal further objects to the Request's use of the undefined term "proposed plan." Without waiving its objections, Allied-Signal denies the Request.

23. Admit that U.S. EPA made the proposed plan for the Site available to the public in accordance with Section 117(a)(1) of CERCLA, 42 U.S.C. § 9617(a)(1).

Response: Allied-Signal objects to the Request's use of the phrases "available to the public" and "in accordance with the Section 117(a)(1) of CERCLA, 42 U.S.C. § 9617(a)(1) on the grounds that it seeks an admission of a conclusion of law. Allied-Signal further objects to

the Request's use of the undefined term "proposed plan." Without waiving its objections, Allied-Signal denies the Request.

24. Admit that U.S. EPA made the proposed plan for the Site available to the public in accordance with the NCP, 40 C.F.R. § 300.430(f)(3)(i)(B) (1990), 55 Fed. Reg. 8851 (March 8, 1990).

Response: Allied-Signal objects to the Request's use of the phrases "available to the public" and "in accordance with the NCP, 40 C.F.R. § 300.430(f)(3)(i)(B) (1990), 55 Fed. Reg. 8851 (March 8, 1990) on the grounds that it seeks an admission of a conclusion of law. Allied-Signal further objects to the Request's use of the undefined term "proposed plan." Without waiving its objections, Allied-Signal denies the Request.

25. Admit that the notice and brief analysis referred to in Request for Admission 20 included sufficient information necessary to provide a reasonable explanation of the proposed plan and alternative proposals considered in accordance with Section 117(a) of CERCLA, 42 U.S.C. § 9617(a).

Response: Allied-Signal objects to the Request on the grounds that it seeks an admission of conclusions of law. Without waiving its objection, Allied-Signal denies the Request.

26. Admit that U.S. EPA provided a reasonable opportunity for submission of written and oral comments on the proposed plan for the Site in accordance with Section 117(a)(2) of CERCLA, 42 § U.S.C. 9617(a)(2).

Response: Allied-Signal objects to the Request on the grounds that it seeks an admission of conclusions of law. Allied-Signal further objects to the Request's use of the

undefined term "proposed plan." Without waiving its objections, Allied-Signal denies the Request.

27. Admit that U.S. EPA provided a reasonable opportunity to comment and provided information regarding the proposed plan for the Site in accordance with Section 113 (k)(2)(B)(ii) of CERCLA, 42 § U.S.C. 9617(a)(2) [sic].

Response: Allied-Signal objects to the Request on the grounds that it seeks an admission of conclusions of law. Allied-Signal further objects to the Request's use of the undefined term "proposed plan." Without waiving its objection, Allied-Signal denies the Request.

28. Admit that U.S. EPA provided a reasonable opportunity for submission of written and oral comments on the proposed plan and the supporting analysis and information located in the information repository, including the RI/FS for the Site in accordance with the NCP, 40 C.F.R. § 300.430(f)(3)(i)(C) (1990), 55 Fed. Reg. 8851 (March 8, 1990).

Response: Allied-Signal objects to the Request on the grounds that it seeks an admission of conclusions of law. Allied-Signal further objects to the Request's use of the undefined terms "proposed plan" and "information repository." Without waiving its objections, Allied-Signal denies the Request.

29. Admit that the comment period referred to in the previous Request for Admission was not less than 30 days in accordance with the NCP, 40 C.F.R. § 300.430(f)(3)(i)(C) (1990), 55 Fed. Reg. 8851 (March 8, 1990).

Response: Allied-Signal objects to the Request on the grounds that it seeks an admission of conclusions of law. Allied-Signal further objects to the Request's vague and

ambiguous use of the phrase "comment period referred to in the previous Request". Without waiving its objections, Allied-Signal denies the Request.

30. Admit that U.S. EPA provided an opportunity for a public meeting near the Site regarding the proposed plan for the Site in accordance with Section 117(a)(2) of CERCLA, 42 U.S.C. § 9617(a)(2).

Response: Allied-Signal objects to the Request on the grounds that it seeks an admission of conclusions of law. Allied-Signal further objects to the Request's use of the undefined terms "public meeting" and "proposed plan." Without waiving its objections, Allied-Signal admits only that a meeting took place, but denies the remaining allegations of the Request.

31. Admit that U.S. EPA satisfied Section 113(k)(2)(B)(iii) of CERCLA, 42 U.S.C. § 9613(k)(2)(B)(iii), by providing the opportunity for a public meeting near the Site referred to in Request for Admission 30.

Response: Allied-Signal objects to the Request on the grounds that it seeks an admission of a conclusion of law. Without waiving its objection, Allied-Signal denies the Request.

32. Admit Answering Defendant attended a public meeting on the proposed remedial action plan for the Site which meeting was held by U.S. EPA in Granite City on February 8, 1990.

Response: Denied.

33. Admit that the meeting referred to the previous Request for Admission satisfied U.S. EPA's duty for providing a meeting under Section 117(a)(2) of CERCLA, 42 U.S.C. > 9617(a)(2).

Response: Allied-Signal objects to the Request on the grounds that it seeks an admission of a conclusion of law. Without waiving its objection, Allied-Signal denies the Request.

34. Admit that U.S. EPA held a meeting in Chicago on March 9, 1990 concerning the proposed remedial action plan for the Site.

Response: Admitted.

35. Admit that the meeting referred to the previous Request for Admission satisfied U.S. EPA's duty for providing a meeting under Section 117(a)(2) of CERCLA , 42 U.S.C. 9617(a)(2).

Response: Allied-Signal objects to the Request on the grounds that it seeks an admission of a conclusion of law. Without waiving its objection, Allied-Signal denies the Request.

36. Admit that Answering Defendant was invited to attend the meeting referred to in Request for Admission 34.

Response: Admitted.

37. Admit that Answering Defendant, or a representative of the Answering Defendant, attended the meeting referred to in Request for Admission 34.

Response: Admitted.

38. Admit that after consideration of the RI/FS and the public comments received on the proposed plan, and based upon U.S. EPA's full administrative record, U.S. EPA selected a remedial action to address contamination at the Site.

Response: Allied-Signal admits that U.S. EPA selected a remedial action and alleged that it was necessary to address contamination at the Site, but denies that such a remedial action could have been selected after consideration of the RI/FS and the public comments and based upon U.S. EPA's full administrative record.

39. Admit that on March 30, 1990, the U.S. EPA Regional Administrator for Region V signed a Record of Decision ("ROD") which sets forth U.S. EPA's decision on the remedy for the Site.

Response: Allied-Signal admits that there exists a Record of Decision of the referenced date, but denies all other allegations of the Request.

40. Admit that the ROD and its attachments (Appendix A is the Responsiveness Summary and Appendix B is an additional discussion of the basis of U.S. EPA's Selection of a Lead Soil Clean-up Level for the NL/Taracorp Superfund Site) constitutes a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations, in accordance with Section 113(k)(2)(B)(iv).

Response: Allied-Signal objects to the Request on the grounds that it seeks an admission of a conclusion of law. Without waiving its objection, Allied-Signal denies the Request.

41. Admit that the ROD and its attachments (Appendix A is the Responsiveness Summary and Appendix B is an additional discussion of the basis of U.S. EPA's Selection of a Lead Soil Clean-up Level for the NL/Taracorp Superfund Site) provide a statement of the basis and purpose of the selected action for the Site in accordance with Section 113(k)(2)(B)(v).

Response: Allied-Signal objects to the Request on the grounds that it seeks an admission of a conclusion of law. Without waiving its objection, Allied-Signal denies the Request.

42. Admit that the ROD and its attachments (Appendix A is the Responsiveness Summary and Appendix B is an additional discussion of the basis of U.S. EPA's Selection of a Lead Soil Clean-up Level for the NL/Taracorp Superfund Site) constitutes a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations, in accordance with Section 117(b).

Response: Allied-Signal objects to the Request's use of the vague and ambiguous term "Section 117(b)." Allied-Signal further objects to the Request on the grounds that it seeks an admission of a conclusion of law. Without waiving its objection, Allied-Signal denies the Request.

43. Admit the selected remedy for the Site in the ROD in protective of public health.

Response: Denied.

44. Admit the selected remedy for the Site in the ROD is protective of public welfare.

Response: Denied.

45. Admit the selected remedy for the Site in the ROD is protective of the environment.

Response: Denied.

46. Admit the selected remedy for the Site in the ROD is cost effective.

Response: Denied.

47. Admit the selected remedy for the Site in the ROD is consistent with the NCP, 40 C.F.R. Part 300 (1989).

Response: Denied.

48. Admit the State of Illinois concurred in the remedial action for the Site set forth in the ROD.

Response: Allied-Signal admits that a letter exists from the Illinois Environmental Protection Agency concurring in the remedial action set forth in the Record of Decision, but has no way of determining whether the letter is representative of the State of Illinois.

Submitted this 13th day of April, 1992.

ALLIED-SIGNAL, INC.

By: _____
One of its attorneys

Karen L. Douglas
Pretzel & Stouffer, Chartered
One South Wacker Drive
Suite 2500
Chicago, Illinois 60606

45. Admit the selected remedy for the Site in the ROD is protective of the environment.

Response: Denied.

46. Admit the selected remedy for the Site in the ROD is cost effective.

Response: Denied.

47. Admit the selected remedy for the Site in the ROD is consistent with the NCP, 40 C.F.R. Part 300 (1989).

Response: Denied.

48. Admit the State of Illinois concurred in the remedial action for the Site set forth in the ROD.

Response: Allied-Signal admits that a letter exists from the Illinois Environmental Protection Agency concurring in the remedial action set forth in the Record of Decision, but has no way of determining whether the letter is representative of the State of Illinois.

Submitted this 13th day of April, 1992.

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One of its attorneys

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